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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,576	11/13/2000	Slobodan Jovanovic	PM 270173	4538

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EXAMINER	
PHAN, TRI H	
ART UNIT	**PAPER NUMBER**
2661	5

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/709,576	JOVANOVIC ET AL.	
	Examiner	Art Unit	
	Tri H. Phan	2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-35 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-35 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. Figure 1A should be designated by a legend such as -- Prior Art -- because only that which is old is illustrated (See Part 3; Description of the Related Art and General Background; Page 2, Lines 1-10). See MPEP § 608.02(g).

Claim Objections

2. Claims 1, 10, 13, 22, 24 and 33 are objected to because of the following informalities:

In regard to claim 1, line 22, the recitation of "a first maximum compatible source-to-sink data rate" should be changed to -- the first maximum compatible source-to-sink data rate -- for clarity. Same objections for claim 13, line 23; claim 24, line 23.

Regarding claim 10, line 6, the recitation of "a second maximum compatible source-to-sink data rate" should be changed to -- a third maximum compatible source-to-sink data rate -- for clarity. Same objections for claim 22, line 6; claim 33, line 6.

Appropriate corrections are required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Li** (U.S.6,549,587).

- In regard to claims 1, 13 and 24, **Li** discloses in Figs. 1-34 and in the respective portions of the specification about the signal processing system, e.g. data transmission system ("*apparatus*"), computer readable media embodying program of instructions executable by the programmable DSPs ("*machine-readable medium encoded with plurality of processor-executable instruction sequences*"; For example see Figs. 2-4; Col. 3, Lines 15-37; Col. 40, Lines 45-57) and method ("*method*") for exchanging voice and data signals between telephony devices ("*first and second communication devices*"; For example see Fig. 1; Col. 6, Lines 13-20) and the respective network gateways ("*first and second gateways*") over the switched circuit network and the packet based network ("*exchanging source-to-sink data information in the packet-based network*"; For example see Abstract; Figs. 1, 3-5, 19 and 23; Col. 6, Lines 13-29); wherein the sending/receiving telephony device synchronizes type and data rate with the respective network gateway ("*data rate information*"; For example see Col. 49, Lines 14-21, 47-58; Col. 53, Lines 4-23) and the sending/receiving network gateway forwards the rate control codes to each other ("*forwarding the first/second data signaling rate to the second/first gateway mechanism*"; For example see Col. 55, Line 50-67; Col. 57, Lines 52-60) and determines the maximum answer data rate and the maximum call data rate in symmetric and asymmetric rate support (For example see Col. 59, Lines 12-22; Col. 60, Line 36 through Col. 61, Line 12); wherein the synchronizing data rates between sending telephony device and sending gateway, receiving telephony device

and receiving gateway, sending and receiving gateways are through the call negotiation, rate negotiation/renegotiation and handshaking processes (For example see Col. 57, Line 1 through Col. 63, Line 40). **Li** fails to specifically disclose about the "*first maximum compatible source-to-sink data rate*".

However, it is obvious that each network gateway forwards the connection data rate to other network gateway ("*first and second data signaling rate received from the gateway mechanism*") and compares the receiving data rate to its own data rate ("*first and second data signaling rate*") as disclosed in Col. 59, Lines 12-22; Col. 60, Lines 36-48; by comparing the 'maximum answer data rate' and the 'maximum call data rate' of the four MP sequences, the lowest data rate is the preferred data rate and sent to its respective telephony device so that the calling and answer telephony devices operate at the preferred data rate ("*first maximum compatible source-to-sink data rate*"; For example see Col. 60, Line 63 through Col. 61, Line 12).

- Regarding claims 2-3, 14-15 and 25-26, **Li** further discloses about the answer and calling network gateways relaying MP sequences ("*gateway mechanism implements the delay until receiving data rate information from other gateway*"; For example see Col. 58, Line 56 through Col. 59, Line 10; Col. 60, Lines 9-63)

- In regard to claims 4-5, 16-17 and 27-28, **Li** fails to specifically disclose about the "*first maximum compatible source-to-sink data rate*".

However, it is obvious that wherein the sending/receiving telephony device synchronizes type and data rate with the respective network gateway ("*data rate information*"; For example see Col. 49, Lines 14-21, 47-58; Col. 53, Lines 4-23) and each network gateway forwards the connection data rate to other network gateway ("*first and second data signaling rate received from the gateway mechanism*") and compares the receiving data rate to its own data rate ("*first and second data signaling rate*") as disclosed in Col. 59, Lines 12-22; Col. 60, Lines 36-48; by comparing the maximum answer and call data rate ("*maximum data rate*") of the four MP sequences, the lowest data rate is the preferred data rate and sent to its respective telephony device so that the calling and answer telephony devices operate at the preferred data rate ("*first maximum compatible source-to-sink data rate*"; For example see Col. 60, Line 63 through Col. 61, Line 12).

- Regarding claims 6, 18 and 29, **Li** further discloses about the modulation parameter 'MP' sequence in the V.34 standard ("*modulation parameter sequence with any of the V series*"; For example see Col. 60, Lines 9-13).

- In regard to claims 7, 19 and 30, **Li** further discloses about the voice synchronizer could discard voice frames when the buffer is overflowed due to excessive delay variation and jitter ("*nonfunctional modulation parameter sequence*"; For example see Col. 30, Line 40 through Col. 31, Line 25; Col. 48, Lines 17-43).

- Regarding claims 8-9, 20-21 and 31-32, **Li** further discloses about the sending and receiving fax devices ("*facsimile machines*") in the fax relay mode (For example see details in Figs. 19-22; Col. 45, Line 46 through Col. 52, Line 63).

- In regard to claims 10-12, 22-23 and 33-35, **Li** further discloses about the sending/receiving modem devices ("*first and second modems*") and the sending/receiving network gateways ("*first and second gateways*") in the full-duplex mode; wherein the sending/receiving telephony device synchronizes type and data rate with the respective network gateway ("*data rate information*"; For example see Col. 49, Lines 14-21, 47-58; Col. 53, Lines 4-23) and each network gateway forwards the connection data rate to other network gateway ("*first and second data signaling rate received from the gateway mechanism*") and compares the receiving data rate to its own data rate ("*first and second data signaling rate*") as disclosed in Col. 59, Lines 12-22; Col. 60, Lines 36-48; by comparing the maximum answer and call data rate ("*second maximum compatible source-to-sink data rate*") of the four MP sequences, the lowest data rate is the preferred data rate and sent to its respective telephony device so that the calling and answer telephony devices operate at the preferred data rate (For example see details in Figs. 23-26; Col. 52, Line 64 through Col. 63, Line 40).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tönnby et al. (U.S.6,515,996), **Abrishami et al.** (U.S.6,463,135) and **Johnston** (U.S.6,480,585) are all cited to show devices and methods for improving the voice/fax/modem communication architectures over the packet network, which are considered pertinent to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri H. Phan, whose telephone number is (703) 305-7444. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms can be reached on (703) 305-4703.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office, whose telephone number is (703) 305-3900.

Tri H. Phan
February 18, 2004

DARGTON
PRIMARY EXAMINER